

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC.,

Plaintiff,

v.

ILLUMINA, INC.,

Defendant.

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C.A. No. 04-901-JJF

**SPECIAL VERDICT SHEET**

March 12, 2007

**INFRINGEMENT**

**INFRINGEMENT OF THE '243 PATENT**

1. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,646,243?

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 35	Yes _____	No _____

2. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '243 patent?

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 35	Yes _____	No _____

**INFRINGEMENT OF THE '365 PATENT**

3. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,399,365?

Claim 36	Yes _____	No _____
Claim 41	Yes _____	No _____

4. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '365 patent?

Claim 36	Yes _____	No _____
Claim 41	Yes _____	No _____

**INFRINGEMENT OF THE '432 PATENT**

5. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,355,432?

Claim 2      Yes \_\_\_\_\_ No \_\_\_\_\_  
Claim 9      Yes \_\_\_\_\_ No \_\_\_\_\_

6. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '432?

Claim 2      Yes \_\_\_\_\_ No \_\_\_\_\_  
Claim 9      Yes \_\_\_\_\_ No \_\_\_\_\_

**INFRINGEMENT OF THE '531 PATENT**

7. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 5,545,531?

Claim 1      Yes \_\_\_\_\_ No \_\_\_\_\_  
Claim 2      Yes \_\_\_\_\_ No \_\_\_\_\_

8. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '531 patent?

Claim 1      Yes \_\_\_\_\_ No \_\_\_\_\_  
Claim 2      Yes \_\_\_\_\_ No \_\_\_\_\_

**INFRINGEMENT OF THE '716 PATENT**

9. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 5,795,716?

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____

10. Has Affymetrix proven by a preponderance of the evidence that Illumina has infringed any of the following claims of the '716 patent under the doctrine of equivalents?

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____

11. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '716 patent?

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____

**DAMAGES**

12. If you have found that Illumina has infringed at least one asserted claim from any of the '243, '365, '432, '531 and/or '716 patents, has Affymetrix proven by a preponderance of the evidence that it is entitled to lost profits damages?

Yes \_\_\_\_\_ No \_\_\_\_\_

13. If you answered "Yes" to question number 12, what amount of lost profits has Affymetrix proven it is entitled to?

Amount \$ \_\_\_\_\_

14. For any infringing sales that Affymetrix has not sought lost profits damages for or to which you conclude that Affymetrix is not entitled to lost profits damages, what reasonable royalty has Affymetrix proven by a preponderance of the evidence that it is entitled to?

Royalty \_\_\_\_\_%

Amount \$ \_\_\_\_\_

You must each sign this Verdict Form:

Dated: \_\_\_\_\_

\_\_\_\_\_(foreperson)

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